



Paper No. 26

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**MAR 24 2003**

**OFFICE OF PETITIONS**

In re Application of  
Hoerner et al.  
Application No. 09/249,916  
Filed: February 12, 1999  
Attorney Docket No. 29020/96007B2

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 7, 2003, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed June 3, 2002, and no extensions of time under the provisions of 37 CFR 1.136(b) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the above-identified application became abandoned on August 4, 2002. See MPEP 1215.04. A Notice of Abandonment was mailed on January 23, 2003.


Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1970.00 extension of time fee submitted with the petition on March 7, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

The file is now being forwarded to Technology Center 3600.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

  
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